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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BOARD OF TRUSTEES OF THE NORTHERN CALIFORNIA PLASTERING INDUSTRY PENSION TRUST FUND; BOARD OF TRUSTEES OF THE PLASTERING INDUSTRY WELFARE TRUST FUND; BOARD OF TRUSTEES OF THE OPERATIVE PLASTERERS LOCAL UNION NO. 66 SUPPLEMENTAL RETIREMENT BENEFIT FUND; BOARD OF TRUSTEES OF THE OPERATIVE PLASTERERS LOCAL UNION NO. 66 JOURNEYMAN AND APPRENTICE TRAINING TRUST FUND; and BOARD OF TRUSTEES OF THE PLASTERING INDUSTRY LABOR-MANAGEMENT COOPERATION COMMITTEE TRUST FUND,) No. C 06 7154 EMC)) SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF JUDGMENT UPON DEFAULT ;)
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Plaintiffs,

v.

RICHARD WEST, individually and doing business as RICK WEST PLASTERING,

Defendant.

*ORDER RESETTING
Case Management
Conference*

(Signature)

COME NOW the plaintiffs Board of Trustees of the Northern California Plastering Industry Pension Trust Fund; Board of

1 Trustees of the Plastering Industry Welfare Trust Fund; Board of
2 Trustees of the Operative Plasterers Local Union No. 66
3 Supplemental Retirement Benefit Fund; Board of Trustees of the
4 Operative Plasterers Local Union No. 66 Journeyman and Apprentice
5 Training Trust Fund; and Board of Trustees of the Plastering
6 Industry Labor-management Cooperation Committee Trust Fund ("Trust
7 Funds") and defendant Richard West individually and doing business
8 as Rick West Plastering ("Employer") and hereby enter into this
9 Settlement Agreement and Stipulation for Entry of Judgment Upon
10 Default ("Agreement"), stipulating and agreeing as follows:

11 1. The Trust Funds have alleged that Employer failed to make
12 fringe benefit contributions on a timely basis on account of work
13 performed by Employer's employees during the period from May 2006
14 through September 2006.

15 2. The Trust Funds caused an audit to be conducted of the
16 books and records of the Employer for the period from January 1,
17 2006 through December 31, 2006 ("Audit").

18 3. The Trust Funds and the Employer desire to settle this
19 matter and have agreed upon a basis for the adjustment of the
20 matters alleged in the Complaint including any report shortage and
21 audit shortage owed by the Employer to the Trust Funds through
22 December 31, 2006 and the entry of a judgment in this action
23 pursuant to the terms of this Agreement.

24 4. The Trust Funds specifically reserve their right to audit
25 the Employer for the period from January 1, 2007 forward, for as
26 long as Employer is still bound to the collective bargaining
27 agreement with Plasterers Local Union No. 66, and to collect any
28 additional monies found due in such an audit. The Employer agrees

1 that this Agreement will not act as a bar to the Trust Funds
2 conducting an audit or collecting additional monies found due in
3 such an audit.

4 5. The Trust Funds and Employer having agreed upon a basis
5 for the adjustment of the matters alleged in the complaint, and the
6 entry of a judgment in this action upon defendant's default as
7 described below, the Trust Funds by their undersigned counsel and
8 the Employer by an authorized individual and its counsel approving
9 as to form agree that a consent judgment will be entered by the
10 plaintiffs, Board of Trustees of the Northern California Plastering
11 Industry Pension Trust Fund; Board of Trustees of the Plastering
12 Industry Welfare Trust Fund; Board of Trustees of the Operative
13 Plasterers Local Union No. 66 Supplemental Retirement Benefit Fund;
14 Board of Trustees of the Operative Plasterers Local Union No. 66
15 Journeyman and Apprentice Training Trust Fund; and Board of
16 Trustees of the Plastering Industry Labor-management Cooperation
17 Committee Trust Fund, (hereinafter "Trust Funds"), and against the
18 defendant, Rick West, individually and doing business as Rick West
19 Plastering (hereinafter "Employer"), if Employer defaults as set
20 forth below, without notice in favor of plaintiffs, for the sum of
21 FORTY-SIX THOUSAND, FOUR HUNDRED AND NINETY-FIVE DOLLARS AND THIRTY
22 CENTS (\$46,495.30) plus interest at the contract and plan rate of
23 ten percent (10%) per annum from May 1, 2007 until paid.

24 6. This judgment can be satisfied by Employer's payment of
25 TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$27,500.00), payable
26 as follows:

- 27 (a) Payment of \$27,500.00 without interest, in twenty
28 (20) monthly installments of \$1,375.00 per month on

1 the 10th of each month from June 2007 through
2 January 2009.

3 (b) All of the aforementioned payments shall be made
4 payable to "**McCarthy, Johnson & Miller, Trustee**
5 **Account,**" and sent to the following address:

6 **Lori A. Nord, Esq.**
7 **McCarthy, Johnson & Miller**
8 **Law Corporation**
9 **595 Market Street, Suite 2200**
10 **San Francisco, CA 94105**

11 (c) Employer shall not be in default of any installment
12 if said check is received within ten (10) days of
13 its due date.

14 (d) Employer may, at any time, pay all or any additional
15 portion of the remaining principal due without any
16 prepayment penalty.

17 7. If Employer defaults in the timely payment of any
18 installment under this Stipulation, the Trust Funds shall send
19 Employer a letter by first class mail to the Employer's last known
20 address allowing Employer to cure said default, with a courtesy
21 copy by fax to Michael Mau. If the Employer does not cure the
22 default within five (5) days of the date of the Trust Funds'
23 letter, the full \$46,495.30 of this judgment, plus interest as set
24 forth in paragraph 5 above, will immediately fall due less credit
25 for any payments already received. Each payment shall be credited
26 first to interest, then to principal.

27 8. The Trust Funds agree that they will not enter a judgment
28 against Employer until and unless Employer defaults and fails to
timely cure said default under the terms of this Settlement
Agreement and Stipulation. In the event of Employer's uncured

1 default, Trust Funds will be able to immediately obtain and execute
2 on the judgment for the remaining amount due.

3 9. Upon completion of the payments due under this
4 Stipulation, the Trust Funds will file a Dismissal of this action
5 with prejudice or a full Satisfaction of Judgment of this action,
6 as appropriate.

7 10. Except for the \$10,753.09 in attorneys' fees, audit fee,
8 and costs incurred by Trust Funds through March 31, 2007 which is
9 included in this stipulation, each party is to bear their
10 respective costs and attorneys' fees incurred in this action.

11 11. This Agreement fully settles all disputes between the
12 parties for hours worked by employees of Employer through December
13 31, 2006, whether known or unknown.

14 12. This Agreement may be executed in multiple counterparts,
15 each of which shall constitute an original, and all of which taken
16 together shall constitute one and the same agreement.

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**McCARTHY, JOHNSON & MILLER
LAW CORPORATION**

Dated: May 18, 2007

By: *Lori Nord*

LORI A. NORD
Attorneys for Plaintiffs

**RICHARD WEST, individually and doing
business as RICK WEST PLASTERING**
Defendant

Dated: May _____, 2007

By: _____

RICHARD WEST

APPROVED AS TO FORM:

LAW OFFICES OF MICHAEL L. MAU

Dated: May _____, 2007

By: _____

MICHAEL L. MAU
Attorneys for Defendant

**MCCARTHY, JOHNSON & MILLER
LAW CORPORATION**

Dated: May __, 2007

By: _____

LORI A. NORD
Attorneys for Plaintiffs

**RICHARD WEST, individually and doing
business as RICK WEST PLASTERING**
Defendant

Dated: May 30, 2007

By: _____

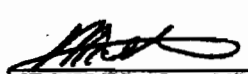

RICHARD WEST

APPROVED AS TO FORM:

LAW OFFICES OF MICHAEL L. MAU

Dated: May 31, 2007

By: _____


MICHAEL L. MAU
Attorneys for Defendant

IT IS SO ORDERED


EDWARD M. CHEN, MAGISTRATE JUDGE

6/14/07
Date

Case Management Conference next
from 7/11/07 to 1/23/08 @
1:30 p.m. this hearing will be
vacated when a stipulation
for dismissal is filed.

